IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 21148 of 2005

Between:

K. Ammi Raju and another

..... PETITIONERS

AND

The A.P. Eastern Power Distribution, Co. Ltd.,

Rep by its Chairman, Corporate Office,

Daba Gardens, Visakhapatnam (PO) and another

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the impugned provisional notice, issued by the 2nd respondent in his proceedings in Lr.No.ADE/O/RCP/D.No.1249/05, dated 16.09.2005 to the petitioners for Rs.77,398/- for a period of one year as pilferage charges and demand for payment of 50% of the assessed amount i.e. Rs.38,699/- for restoration of power supply to the hotel premises of the petitioners, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents.

The subject matter of this writ petition is covered by a Division Bench Judgment of this Court in Writ Appeal Nos.452 and 477 of 2004 dated 11.03.2004, wherein the Division Bench held that the authorities did not have power to forthwith stop or disconnect electricity while issuing provisional assessment. It was further held that provisional assessment was in the nature of a show cause notice against which the consumer was entitled to have an opportunity of hearing before final order was passed by the concerned authority, and that the notice would be deemed to have been issued only under Section 126 of the Electricity Act under which there was no authority or power to the respondents to discontinue or disconnect electricity supply or call upon the petitioner to pay even part of the provisional assessment amount till final assessment was made. It was further held that only on the consumers not complying with the final assessment, the respondents could proceed further in the matter, which would also be subject to appeals, if any, to be filed by the consumers.

Accordingly, the Writ Petition is disposed of, in terms of the judgment of the Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004, dated 11.03.2004, with a direction to the respondents to restore the electricity supply to the hotel premises of the petitioners forthwith. This order will not preclude the respondents to pass final orders, after affording opportunity of being heard to the petitioners. No order as to costs.

K.C. BHANU,J

Dated: 28.09.2005

Dsr

Note:

Issue wire at party's costs

B/o

Dsr